



**An Coimisiún um
Chosaint Sonraí**
Data Protection
Commission

Procurement Guidelines – Policy and Procedures

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1. Introduction

1.1 Document Purpose

These guidelines set out the policy, related information and procedures that must be followed for the procurement of all goods and services at the Data Protection Commission (DPC).

These guidelines aim to provide DPC staff members with the information and tools required to procure all goods and services that are required, in a way that ensures that the DPC:

- Upholds a culture of accountability, transparency, efficiency and value for money in the procurement of goods and services, and
- Delivers its responsibility for efficiency and economy in providing these services under Public Financial Procedures.

DPC staff members who are undertaking the procurement of services or goods should:

1. Follow these guidelines and refer to them throughout the procurement process;
2. Seek advice from the DPC Corporate Affairs unit which has central responsibility for all DPC procurement;
3. Refer to the Office of Government Procurement (OGP) detailed guidelines as necessary, available at <https://ogp.gov.ie/public-procurement-guidelines-for-goods-and-services/>.

1.2 Document Structure

These guidelines are set out in two main parts:

- Procurement Policy with information on procurement categories, requirements, thresholds, etc.
- Procurement Procedures with the step-by-step process that must be followed for each procurement method.

All DPC staff members who are procuring any goods and services should refer to both the Procurement Policy and Procurement Procedures sections of these guidelines.

1.3 Contact Details

Any questions related to procurement at the DPC, all requests for procurement advice and all submissions of procurement documents for central filing should be emailed to the Corporate Affairs unit: corpaffairs@dataprotection.ie or raised directly with: Tom Walsh (Head of Corporate Affairs unit) on extension 0151.

Procurement of books, subscriptions, catering, translation and office supplies is completed fully from end-to-end by the Corporate Affairs unit directly. All requests for these specific procurement types should be submitted directly to: corpaffairs@dataprotection.ie

2. Procurement Policy

2.1 Context

The Office of Government Procurement (OGP) was established in 2013 and operates as an office of the Department of Public Expenditure and Reform (DPER). Amongst other functions, the OGP sets out the procurement procedures to be followed by public service bodies, including the DPC, under national and EU rules.

The OGP's [Public Procurement Guidelines for Goods and Services](#) (2019) state that:

“Public procurement refers to the process by which public bodies purchase works, goods or services from suppliers which they have selected for this purpose. It ranges from the purchase of routine goods or services to large scale contracts for infrastructural projects and involves a wide and diverse range of contracting authorities”.

Following the OGP Guidelines and utilising OGP procurement frameworks when possible can help the DPC to ensure that we follow procurement best practice, that we are consistent in our application of procurement rules and that we achieve the best value for money possible in our expenditure.

The key procurement principles that are defined by the OGP are as follows:

- Procurement transactions and decisions must in all respects be non-discriminatory, fair, equitable and ensure value for money;
- Contracting authorities (e.g. the DPC) must be able to justify decisions made and actions taken;
- Generally, a competitive process carried out in an open and transparent manner delivers best value for money.

DPC staff members who are undertaking the procurement of goods and services should refer to the OGP's [Public Procurement Guidelines for Goods and Services](#) (2019). The Corporate Affairs unit can provide advice on the structure of the OGP Guidelines and on how to apply them.

2.2 Procurement Responsibilities at the DPC

Procurement of books, subscriptions, catering, translation and office supplies is completed fully from end-to-end by the Corporate Affairs unit directly. All requests for these specific procurement types should be submitted directly to:
corpaffairs@dataprotection.ie

For procurement of all other goods and services at the DPC, the split of responsibilities is summarised just below. The procurement procedures set out in Section 3 of this document provide more details on the specific responsibilities that apply.

The DPC Procurement function is part of the Corporate Affairs unit, with specific responsibilities to:

- i. Act as the general DPC contact point for the purposes of OGP and the Department of Justice and Equality Procurement division, when necessary;
- ii. Maintain DPC policies, procedures and templates;
- iii. Provide general procurement advice to DPC staff members undertaking procurement of goods and services (but not procurement assurance or approval);
- iv. Maintain a register of all procurement that is undertaken;
- v. Maintain the DPC Asset Register and Contracts Register;
- vi. Maintain a central library of all DPC procurement documents;
- vii. Complete procurement from end-to-end for specific types of procurement of routine goods and services (currently books, subscriptions, catering and translation) for efficiency reasons.

Functional areas that need to procure goods and services have responsibilities to:

- i. Confirm the need for the goods or services, prepare the internal business case and obtain the necessary approval;
- ii. Select the most appropriate procurement method, including assessment of OGP Framework Agreements that may already be in place;
- iii. Prepare the tender documentation as needed (e.g. Request for Tender) including the specification of requirements;
- iv. Liaise directly with the OGP on the specific procurement exercise (e.g. finalising the RfT, responding to clarification queries, and so on);
- v. Evaluate responses and complete evaluation report;
- vi. Finalise the contract documentation, including service level agreement and data processing agreement as relevant;
- vii. Ongoing management of the contract, service level agreement and data processing agreement.

2.3 *Estimated Value and Procurement Bands*

The estimated value of the goods or services that are being procured is a very significant factor in procurement policy and procedure. In estimating the value of an intended procurement, the following rules should be followed:

- The estimate must reflect a genuine estimate of the expected contract value as at the date of seeking quotes or publication of the Request for Tenders;
- The estimated value must be exclusive of VAT;
- The estimate must take lifetime costs into consideration, for example,

support services, maintenance, licensing etc., as well as any possible contract extensions;

- The estimate should draw on previous experience within the DPC if possible; and
- The estimated must not be artificially split in a way that keeps the estimated value below thresholds.

The estimated value will fall into one of the procurement bands that have been defined, which will then be the key driver for identifying:

- The procurement methods that can be used and their relative formality,
- The related procurement rules that apply, and
- The procedures that must be followed.

The procurement bands are as follows.

Band A: Less than €5,000

Band B: Between €5,000 and €25,000

Band C: Between €25,000 and the EU Threshold (€140,000)

Band D: Over the EU Threshold (€140,000)

Procurement with an estimated value that is over the EU Threshold must be advertised in the Official Journal of the EU (OJEU), according to EU legislation. Effective from 1 January 2020, the EU Threshold for Supplies and Services for Government Departments and Offices (including the DPC) is €140,000.

In practice, if the DPC is considering procurement with an estimated value that is above the EU Threshold, then we will likely be seeking to utilise an existing OGP Framework Agreement (see below), and we would not need to advertise directly in the OJEU.

2.4 Procurement Methods

The procurement methods that are most relevant for the DPC are as follows. The steps that must be followed for each of these methods are set out in detail in Section 3 of this document.

Please note, it is the responsibility of the person awarding the contract / authorising payment to ensure that the supplier is tax cleared. Furthermore, a contract should not be awarded / payment made where such tax clearance is not available. This is applicable where the total value of expenditure in a year may be greater than €10,000. The successful tenderer should be set up as a supplier by Finance Section.

Band A: Less than €5,000

- Obtain verbal/written quotes from competitive suppliers and select the lowest price/most suitable offer.
- Use an existing OGP Framework Agreement for the specific goods or services

required.

Band B: Between €5,000 and €25,000

- Provide written specification by email to at least three suppliers and evaluate written quotes to select the most suitable offer and award the contract; *OR*
- Use an existing OGP Framework Agreement for the specific goods or services required.

Band C: Between €25,000 and the EU Threshold (€140,000)

- Draw up detailed tender documents including award criteria, advertise on eTenders using an open procedure, evaluate tenders to select the most suitable offer and award the contract; *OR*
- Use an existing OGP Framework Agreement for the specific goods or services required.

Band D: Over the EU Threshold (€140,000)

- Seek advice from the OGP, draw up detailed tender documents including award criteria, advertise on eTenders and the Official Journal of the EU, evaluate tenders to select the most suitable offer, and award the contract; *OR*
- Use an existing OGP Framework Agreement for the specific goods or services required.

OGP Framework Agreements

The OGP has established multiple Framework Agreements for the procurement of goods and services, with each Framework Agreement having a defined scope in terms of the goods and services that are included. For each Framework Agreement, the OGP has already appointed one or more suppliers that can provide goods and services to public bodies under the terms of that Framework Agreement. This allows public bodies to “draw down” commonly-procured supplies or services as required. Public bodies are required to make use of these Framework Agreements when they are in place.

There are two main types of Framework Agreement:

1. Direct Drawdown where only one supplier has been appointed to the Framework by the OGP or where a rotation system is in place amongst the suppliers or where a cascade approach is used toward the work according to the ranking of the suppliers on the framework, and
2. Mini Competition where multiple suppliers have been appointed to the Framework by the OGP and who can bid for new requests as they arise.

For the first type, the DPC is required to prepare a Notification to Activate Goods or Services Form (NAG For NASF).

For the second type, the DPC is required to prepare a Supplementary Request for Tenders (SRfT) to specify the goods or services required, according to a structured template provided by the OGP. The OGP provides detailed advice and support in the preparation of the SRfT and in throughout the tendering process when a Framework Agreement is being

utilised.

The OGP Guidelines include information on other methods of procurement which are unlikely to be needed for the DPC's purposes, given the nature of our work.

2.5 Procurement Templates and Documents

The Corporate Affairs unit will provide advice, relevant templates and previous examples of documentation that can be used by functional areas that are undertaking procurement of goods and service, for example, Internal Business Case, Request for Tenders (RfT) for estimated value less than €25,000, Evaluation Matrix, and so on.

These templates will be made available on the DPC Info intranet as they are developed. In the meantime, sample tender documents, including previous Requests for Tenders (RfTs) can be provided by the Corporate Affairs unit to DPC staff members who are undertaking procurement.

A critical component of an RfT is the specification of the goods or services that are required by the DPC. The level of detail to be included in the specification depends on the risk, complexity and value of the procurement in question. The specification should be based on the needs that were identified in the business case and should:

- Be drafted in such a way that it clearly identifies the need;
- Be comprehensive enough so that a supplier can understand the real need;
- Not discriminate against any supplier;
- Use generic technical specifications and avoid proprietary brand names.

DPC procurement documentation is stored centrally on the DPC Procurement Database. The Corporate Affairs unit is responsible for filing and maintaining procurement documentation, and for maintaining a register of all procurement that is undertaken. DPC staff members that are undertaking procurement of goods and services, and managing contracts subsequently, must ensure that the following documents have been provided to Corporate Affairs for central filing:

- Final version of the Business Case or equivalent document;
- Final version of the Request for Tenders or specification that was issued;
- Signed copy of the final Evaluation Report, as relevant;
- Signed copy of the final contract and related contract documentation, as relevant.

¹ [Circular 16/13](#) issued by the Department of Public Expenditure and Reform (DPER)

2.6 Code of Ethics

All DPC staff members are subject to the Civil Service Code of Standards and Behaviour². All staff members involved in procurement activity and in the award of contracts are required to act in an ethical manner.

To this end staff must:

- Act in an ethical and honest manner,
- Not accept any gifts,
- Not accept hospitality,
- Declare any conflict of interest in a tender process.

Failure to observe the above may result in disciplinary proceedings and sanctions up to and including dismissal.

2.7 Contracts

As a public body, the DPC may not negotiate contracts in terms of price. It is strictly forbidden to enter into price negotiation when contracts are awarded under the open or restricted procedure.

Contract Management:

Once a contract has been signed or letter of appointment has been issued, the DPC is obliged to ensure that the supplies, works or services are delivered in accordance with the terms of the tender and the prices quoted.

If suppliers fail to meet the terms, they should be contacted immediately and a managed process of improvement should be put in place. A full written record of all correspondence with the supplier should be retained by the DPC. While the procurement process ensures that the contract documentation is in place, the effective management of the contract is also essential to ensure value for money is sustained and delivered.

Payment of Invoices:

No payments are made by the DPC to a supplier until contracts are finalised and signed.

² [Civil Service Code of Standards and Behaviour](#) issued by Standards in Public Office (2004)

To avoid unnecessary queries and delays, DPC staff should request that the supplier quotes the DPC tender name or reference on every invoice. Staff should also instruct the supplier to submit the invoice directly to the DPC Finance unit at:

accounts@dataprotection.ie

Invoices must not be addressed to individual staff members.

The Prompt Payments Act 1997 as amended by the European Communities (Late Payment in Commercial Transactions) S.I. 580 of 2012, applies interest to payments after 30 calendar days. However, in June 2009, the Government introduced a further non-statutory requirement to reduce the payment period by Government Departments and Offices to their suppliers from 30 to 15 calendar days. Therefore, the DPC is required to pay suppliers and service providers within 15 calendar days of receipt of a valid invoice (i.e. the payment must arrive in the supplier's bank by the 15th day). The 15 calendar day payment deadline period commences on the day upon which the DPC receives a valid invoice.

The DPC Finance unit has operational responsibility for the process to ensure that the prompt payments deadline is met by the DPC. The DPC Finance unit also maintains the DPC authorisation limits for payment of invoices.

Contract Extensions

The DPC Corporate Affairs unit retains a Central Register of Contracts and undertakes an annual evaluation of the highest value contracts (or expenditure per supplier) to determine the potential for future savings, if any. The Corporate Affairs unit also reviews the Central Register of Contracts on a quarterly basis to identify any contracts that may be due for renewal.

Any proposal to utilise an extension clause must be supported by a documented review of contract performance for internal approval. Agreement to utilise a contract extension must be confirmed in writing by both the DPC and the supplier.

If the initial contract did not cater for extensions or rollover, the contract cannot be extended beyond the terms of the original contract.

3. Procurement Procedures

3.1 Procurement Phases

In line with the OGP Guidelines, the four main phases of any procurement at the DPC are set out below.

The brief description of each phase is illustrative only. Some of these activities may not be required for a given procurement exercise; however, additional activities may be identified for other procurement exercises based on advice from OGP or DPC Corporate Affairs.

I. Preparation Phase

The types of activity that may need to be undertaken in this phase are:

- Identify and scope the DPC's business need;
- Assess whether the services or goods are available in the market;
- Prepare the business case or equivalent document for internal approval.

The key output of this phase is:

- Approved internal business case or equivalent document.

II. Pre-Tendering Phase

The types of activity that may need to be undertaken in this phase are:

- Estimate the value of the procurement;
- Select the most suitable procurement method;
- Revise the business case if necessary.

The key output of this phase is:

- Revised business case (or equivalent document) incorporating the basis for selecting the procurement method.

III. Tendering Phase

The types of activity that may need to be undertaken in this phase are:

- Prepare the tender documents including the specification of services or goods required and the selection criteria;
- Issue the request for quotes or tender documents or equivalent;
- Respond to requests for clarifications and liaise with the OGP, as relevant;
- Assess and evaluate quotes or tender responses;
- Award the contract and finalise the contract documentation.

The key outputs of this phase are:

- Request for Tenders or specification of requirements, as relevant;
- Evaluation Report, as relevant;
- Finalised, signed contract documentation;
- Revised business case (or equivalent document) with updates as relevant.

IV. Contract Management Phase

The types of activity that may need to be undertaken in this phase are:

- Manage and monitor the provision of the goods and services as specified and contracted;
- Amend or extend the contract as relevant.

The key outputs of this phase are:

- Amended contract documentation, as relevant;

The steps that must be undertaken in each phase depend on the estimated value and on the procurement method that is being used. A separate set of detailed steps is provided in each of the following sections, for each of the different procurement methods, for ease of reference by DPC staff members who are undertaking procurement of goods and services and must therefore follow the relevant steps.

3.2 Request Quotes for Goods and Services to the Value of less than €5,000

The following table sets out the steps that should be undertaken by the DPC staff member who is procuring goods or services, by directly requesting quotes from competitive suppliers.

General responsibilities of the DPC Corporate Affairs unit for procurement also apply to this procurement method but are not included in the table below. These include providing procurement advice and providing DPC procurement templates and sample documents.

Phase	Steps
I. Preparation Phase	<ol style="list-style-type: none">1. Confirm that the goods or services are required in line with the unit business plan, goals, strategic priorities or other business driver.2. Set out the justification for the procurement of goods or services, in an email or short document.3. Confirm via email or meeting minutes that the expenditure is approved in principle.
II. Pre-Tendering Phase	<ol style="list-style-type: none">4. Assess the estimated value of the goods or services and confirm that this will be less than €5,000 (excluding VAT).

III. Tendering Phase	<ol style="list-style-type: none"> 5. Make notes of the specific requirements for the goods or services. 6. Identify competitive suppliers in the market that may provide the goods or services required. 7. Seek verbal or written quotes based on the specific requirements, ensuring that the requests to different suppliers are consistent. 8. Make notes of the quotes received. 9. Confirm via email or meeting minutes the decision on the most suitable / cost-effective quote. 10. Confirm the provision of the goods or services with the supplier, including any contract documents, letter of appointment, purchase order or equivalent document that may be required to place the order.
IV. Contract Management Phase	<ol style="list-style-type: none"> 11. Compile all relevant documents and emails, and provide the required subset to Corporate Affairs for central filing. 12. Confirm that the services or goods have been provided as ordered.

3.3 Request Tenders for Goods and Services to the Value of €5,000 to €25,000

The following table sets out the steps that should be undertaken by the DPC staff member who is procuring goods or services, by directly issuing a Request for Tenders to at least three suppliers.

General responsibilities of the DPC Corporate Affairs unit for procurement also apply to this procurement method but are not included in the table below. These include providing procurement advice and providing DPC procurement templates and sample documents.

Phase	Steps
I. Preparation Phase	<ol style="list-style-type: none"> 1. Confirm that the goods or services are required in line with the unit business plan, goals, strategic priorities or other business driver. 2. Set out the justification for the procurement of goods or services, in a short business case document, based on sample documents and template from the Corporate Affairs unit. 3. Confirm via email or meeting minutes that the expenditure is approved in principle.

II. Pre-Tendering Phase	<ol style="list-style-type: none"> 4. Assess the estimated value of the goods or services and confirm that this will be less than €25,000 (excluding VAT). 5. Update the business case document if required.
III. Tendering Phase	<ol style="list-style-type: none"> 6. Prepare a short Request for Tenders (RfT) document, including the specification of DPC's requirements for the goods or services, based on sample documents and template from the Corporate Affairs unit. 7. Identify competitive suppliers in the market that may provide the goods or services required and confirm their contact details for receipt of RfTs. 8. Issue the RfT to at least three of the suppliers identified, with details of closing dates for clarifications and responses respectively. 9. Confirm the members of the evaluation committee. 10. Provide collated responses to requests for clarification to all invited suppliers. 11. Prepare evaluation matrix for assessment of responses. 12. Send acknowledgement by email of all responses received. 13. Open and assess and evaluate all responses received according to the evaluation criteria, by holding an evaluation meeting. 14. Evaluate all responses received according to the evaluation criteria, by holding an evaluation meeting with all members of the evaluation committee. 15. Prepare evaluation report. 16. Send confirmation email to successful supplier. 17. Send confirmation emails to non-successful suppliers. 18. Confirm and finalise contract documentation or equivalent, and ensure all documents are signed prior to the commencement of services or delivery of goods. 19. Update the business case document if required.

IV. Contract Management Phase	<ol style="list-style-type: none">20. Compile all relevant documents and emails, and provide the required subset to Corporate Affairs for central filing.21. Confirm that the services or goods have been provided as specified.22. Manage the contract as appropriate.
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3.4 Utilise Existing OGP Framework Agreement for Goods and Services of any Value

The following table sets out the steps that should be undertaken by the DPC staff member who is procuring goods or services, by utilising an existing OGP Framework Agreement.

General responsibilities of the DPC Corporate Affairs unit for procurement also apply to this procurement method but are not included in the table below. These include providing procurement advice and providing DPC procurement templates and sample documents.

Phase	Steps
I. Preparation Phase	<ol style="list-style-type: none"> 1. Confirm that the goods or services are required in line with the unit business plan, goals, strategic priorities or other business driver. 2. Set out the justification for the procurement of goods or services, in a business case document, based on sample documents and template from the Corporate Affairs unit. 3. Confirm via email or meeting minutes that the expenditure is approved in principle.
II. Pre-Tendering Phase	<ol style="list-style-type: none"> 4. Assess the estimated value of the goods or services, excluding VAT. 5. Confirm with the OGP that the scope of the DPC requirements are covered by the OGP Framework Agreement that has been identified and is within the lifetime of the Framework Agreement. 6. Confirm with the OGP if the Framework Agreement either requires a Mini Competition or is a Direct Drawdown Framework. 7. Confirm with the OGP the timeframe for publication of the DPC requirements under the Framework. 8. Update the business case document if required.

<p>III. Tendering Phase</p>	<ol style="list-style-type: none"> 9. Prepare the Supplementary Request for Tenders (SRfT) document, provided by the OGP, for the specific Framework Agreement, if a Mini Competition is required. 10. Request that the OGP issue the SRfT to the Framework member suppliers and confirm the details of closing dates for clarifications and responses respectively with the OGP. 11. Confirm the members of the evaluation committee. 12. Prepare responses to requests for clarification, as directed by the OGP. 13. Prepare evaluation matrix for assessment of responses. 14. Open and assess all responses received via the OGP. 15. Evaluate all responses received according to the evaluation criteria, by holding an evaluation meeting with all members of the evaluation committee. 16. Confirm the successful supplier to the OGP so that the OGP can issue confirmation. 17. Confirm the non-successful suppliers to the OGP so that the OGP can issue confirmation. 18. Review and confirm evaluation report provided by the OGP. 19. Confirm and finalise contract documentation or equivalent, and ensure all documents are signed prior to the commencement of services or delivery of goods. 20. Update the business case document if required.
<p>IV. Contract Management Phase</p>	<ol style="list-style-type: none"> 21. Compile all relevant documents and emails, and provide the required subset to Corporate Affairs for central filing. 22. Confirm that the services or goods are provided as specified. 23. Manage the contract as appropriate.

3.5 Other Procurement Methods

If none of the procurement methods set out in the previous sections apply, then the DPC staff member procuring goods or services should seek advice from the DPC Corporate Affairs unit and the OGP.

A link to any current procurement on e-Tenders over the value of €25,000 will be available on the DPC website at the following link:

<https://www.dataprotection.ie/en/about/corporate-governance/freedom-information/foi-publication-scheme>